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**Re: Recommendations Regarding the Los Angeles Sheriff's Department's
Entanglement with Immigration Enforcement**

Dear Commissioners:

It is our understanding that the Ad Hoc Immigration Committee of the Civilian Oversight Commission (COC) is drafting a report concerning Los Angeles Sheriff's Department (LASD) policy as related to immigration, and that this will then be presented to the full COC for a vote. The undersigned civil rights, legal, faith, labor and community organizations write with recommendations on the policies and practices of the LASD in connection with immigration enforcement. Current LASD policy does not protect residents and instead implicates the County in out-of-control immigration enforcement.

The federal government cannot force LASD to participate in its deportation force, and LASD must take every available step to ensure that all residents are protected. The State has explicitly limited certain participation in federal immigration enforcement—but local jurisdictions can and should create policies that are more protective of their residents than these state limits. The TRUST, TRUTH, and Values Acts, and AB 90, are the floor for LASD, but they are not the ceiling. Other state and local jurisdictions—inside and outside of California—have mandated or recommended limits on participation in federal immigration enforcement which go beyond current LASD policy.¹

¹ See e.g., Office of the Att'y General, *Guidance Concerning Local Authority Participation in Immigration Enforcement and Model Sanctuary Provisions*, N.Y. State (Jan. 2017), available at https://ag.ny.gov/sites/default/files/guidance.concerning.local_authority.participation.in_immigration.enforcement.19.17.pdf; N.Y. State Office of the Attorney General and Office of the Attorney General of California, et. al., "Setting the Record Straight on Local Involvement in Federal Civil Immigration Enforcement: The Facts and the Laws," May 2017, at https://ag.ny.gov/sites/default/files/setting_the_record_straight.pdf (describing public safety reasons for limiting civil immigration enforcement); "Major Cities Chiefs Association, Police Chiefs from Nation's Major Cities Object to Legislative Proposals Requiring Local Police to Enforce Federal Immigration Law," at <http://democratsjudiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/MCCAPC130821.pdf>.

Now is a unique and critical moment. Federal authorities have enhanced their targeting of immigrant communities and are relying increasingly on cooperation with local law enforcement authorities to fulfill their deportation agenda. Our communities are under attack and need our local leaders to commit to stand with immigrants and not participate in detentions and deportations. The LASD must revisit existing policies to ensure that it is not directly or indirectly complicit in mass deportation and detention efforts.

To this end, we welcome certain key recommendations presented by the Ad Hoc Immigration Committee on January 25, 2018, including recommendations against LASD honoring detainers or voluntary transfers; against LASD disseminating information about releases from custody where not required by law; and making information publicly available on a website. In an Annex to this letter, we have provided information and sample language to further inform your intended recommendations.

We strongly urge that the COC advise against LASD participating in efforts to enforce federal immigration law, including in the following ways:

- 1) The County should not expend local resources on immigration enforcement.
- 2) LASD should neither honor detainers nor make transfers of individuals to ICE custody unless required by law.
- 3) LASD should limit the collection of personal information that could be used for immigration enforcement purposes—including place of birth.
- 4) LASD should not share information with immigration authorities unless required by law.
- 5) LASD should not permit ICE access to jails absent a valid judicial warrant.
- 6) LASD should not participate in *criminal* immigration enforcement.
- 7) LASD should not respond to ICE requests for field assistance.
- 8) LASD should not participate in joint task forces or operations with, or for the purposes of, immigration enforcement.
- 9) LASD should not aggressively pursue people for “quality of life” and other low-level offenses.
- 10) LASD should ensure transparency and accountability by posting monthly reports regarding immigration enforcement.
- 11) LASD should develop publicly available resources concerning immigration.

Voluntary assistance in the enforcement of federal immigration law detracts from the County’s mission to create safe communities, drains Department resources, and makes it difficult to establish or maintain trust between the Department and the County’s residents. An April 2017 survey by the Luskin School of Public Affairs at UCLA found that 37% of Latino residents surveyed said they are afraid “that a friend or family member could face deportation at any moment,” and 80% said that contact with any government agency or program increases that risk.² A 2013 study previously found that, more than 40% of Latinos surveyed in Los Angeles reported they were “less likely to volunteer information about crimes because they fear getting caught in the web of immigration enforcement themselves or bringing unwanted attention to

² Mike McPhate, *California Today: Worries Over Deportation*, N.Y. Times, April 5, 2017, <https://www.nytimes.com/2017/04/05/us/california-today-worries-over-deportation.html>.

their family or friends”—regardless of their immigration status.³ Assistance in the enforcement of federal immigration law may also lead to racial and other types of profiling.

Now is the time to make clear that LASD will not directly or indirectly participate in federal immigration enforcement. Entangling our local and state law enforcement with a callous and out-of-control deportation machine threatens the rights and safety of all Californians.

We look forward to continuing to engage with the COC as you further your critical work in this area.

Sincerely,

ACLU of Southern California
A New PATH (Parents for Addiction Treatment & Healing)
Asian Americans Advancing Justice – Los Angeles
Black Alliance for Just Immigration (BAJI)
California for Progress
California Immigrant Policy Center
California Immigrant Youth Justice Alliance (CIYJA)
Coalition for Humane Immigrant Rights (CHIRLA)
Central American Resource Center (CARECEN)
Clergy and Laity United for Economic Justice (CLUE)
Democratic Socialists of America – Long Beach
Dignity and Power Now
Dream Team Los Angeles
Drug Policy Alliance
Esperanza Community Housing Corporation
Esperanza Immigrant Rights Project
Filipino Migrant Center
Greater Long Beach Interfaith Community Organization
Ground Game LA
Health Care for All - Los Angeles
Immigrant Defenders Law Center
Immigrant Youth Coalition
Immigration Resource Center of San Gabriel Valley
Indivisible Beach Cities
Indivisible - 43
Khmer Girls in Action
Korean Resource Center
KIWA (Koreatown Immigrant Workers Alliance)
LA Voice
Long Beach Forward
Long Beach Immigrant Rights Coalition

³ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement*, Univ. Ill. at Chicago, 7 (May 2013), https://greatcities.uic.edu/wp-content/uploads/2014/05/Insecure_Communities_Report_FINAL.pdf.

LiBRE (Long Beach Residents Empowered)
Long Beach Sacred Resistance
Loyola Law School & Loyola Immigrant Justice Clinic
March and Rally Los Angeles
The Monkey Wrench Brigade
National Immigration Law Center
National Lawyers Guild – Los Angeles
National Day Laborer Organizing Network
The Pacific Palisades Democratic Club
People Organized for Westside Renewal (POWER)
People Power, Marina del Rey
Pilipino Workers Center
Pomona Economic Opportunity Center
Public Counsel
Southwestern Law School Community Lawyering Clinic
T.R.U.S.T. South LA, a Community Land Trust
UCLA Labor Center
UCLA Law Students for Immigrant Justice
UNITE HERE Local 11
Urban Peace Institute
Youth Justice Coalition

ANNEX: RECOMMENDATIONS

1. The County should not expend local resources on immigration enforcement.

The COC should adopt a recommendation for the County to not use any resources for immigration enforcement. Detaining, investigating, and holding people for ICE should be not be done at the expense of local taxpayers.

LASD should adopt the language below:

“No Sheriff’s Department officer, employee, or agent shall use County funds, resources, facilities, property, equipment, or personnel to assist in the enforcement of federal immigration law. Nothing in this Section shall prevent the Sheriff’s Department from lawfully discharging its duties in compliance with and in response to a lawfully issued judicial warrant or subpoena.”

The LASD “Immigration Information Guide” states that “the Sheriff’s Department does not participate in or assist ICE with immigration enforcement operations.”⁴ This is false. ICE has sustained a “continued permanent [] presence at [the Inmate Reception Center, or IRC] in a room referred to as the ‘other agency’ computer room,” with access to federal and county databases and a “constant flow of information regarding prisoners who were soon to be released.”⁵ LASD deputies are staffing an ICE “Trust Act Desk” throughout the day, assessing whether a person’s conviction makes them eligible to be transferred to ICE, sharing information with ICE to facilitate transfers and deportations (including “on-demand” access to County databases and affirmative information about imminent releases from the IRC, jail or court), and transferring people directly to ICE custody for civil or criminal immigration violations. LASD also participates in joint operations with ICE which facilitate immigration enforcement. Jurisdictions including Santa Clara County and Santa Ana, in California, Taos, New Mexico, and Denver, Colorado, have restricted the use of resources for federal immigration enforcement.⁶ LASD should do the same.

⁴ LASD, Immigration Information Guide, Annex to Letter from Sheriff Jim McDonnell to Inspector General Max Huntsman, Oct. 3, 2017, at

http://shq.lasdnews.net/content/uoa/SHB/upload/Sheriff_Response_to_OIG_Report_on_Immigration.pdf (hereinafter “McDonnell Oct. 3, 2017 Letter”).

⁵ County of Los Angeles Office of Inspector General, “Immigration: Public Safety and Public Trust,” Oct. 2017, pp. 10-11,

https://oig.lacounty.gov/Portals/OIG/Reports/Immigration_Public%20Safety%20and%20Public%20Trust.pdf?ver=2017-10-08-085823-940 (hereinafter “OIG 2017 Report”). Despite repeated visits to the jail, “OIG staff has not observed personnel from any agency other than ICE using this room.” Following the release of the OIG report, in late 2017, the DHS desktop computers were reportedly removed.

⁶ Policy Resolution No. 2011-504 (Santa Clara County, California), Oct. 18, 2011, at

https://www.ilrc.org/sites/default/files/resources/santa_clara_ordinance.pdf; Ordinance 17-094 (Denver, Colorado), Aug. 16, 2017, at <https://www.denverpost.com/2017/08/16/denver-city-council-michael-hancock-immigration-and-customs-enforcement-proposal/>; Taos County Adult Detention Center Policies and Procedures, https://www.ilrc.org/sites/default/files/resources/20_-_taos_policy.pdf; Ordinance No. NS-2908 (Santa Ana, California), Jan. 17, 2017, at https://www.aclunc.org/docs/sanctuary_policy_santa_ana.pdf.

2. LASD should neither honor detainers nor make transfers of individuals to ICE custody unless required by law.

We agree with the COC's proposed recommendation that LASD not honor ICE detainer requests or transfer people to ICE custody unless required by law.

LASD policy should provide that:

"County resources shall not be used for identifying, investigating, arresting, detaining or continuing to detain a person solely on the belief that the person is present in the United States without a visa or immigration authorization document or that the person has committed a violation of immigration law."

Consistent with state law, LASD does not honor detainer requests by ICE.⁷ LASD policy does, however, allow for – and facilitates – transfers to ICE custody, including directly from courthouses.⁸ This includes people transferred following first-time misdemeanor offenses, drug crimes, and non-violent property crimes. LASD turned over to ICE custody more than 1,100 people in the past year and 1,007 people in 2016.⁹ In an analysis of the 2016 data, we found that 30.4% of all transfers were for Proposition 47 eligible offenses, 17.9% were for non-violent drug-related offenses, and 1.5% were for non-violent property offenses. Zero percent of transfers were for murder convictions and 0.33% were for rape convictions.¹⁰

Nothing in state or federal law requires LASD to hold someone at ICE's request or transfer someone to ICE custody. In fact, federal courts have consistently found that detaining a person pursuant to a detainer request violates the Fourth Amendment, and that localities cannot be compelled to comply with these requests.¹¹ Local jurisdictions and local and state law enforcement may adopt policies that limit responses to all immigration hold and transfer requests

⁷ The California Values Act prohibits the honoring of detainers by any local law enforcement authorities. Cal. Gov't Code § 7284.6(a)(1)(B).

⁸ See McDonnell Oct. 3, 2017 Letter, pp. 3-4, *see note 5, supra*.

⁹ This considers data from March 2017 through February 2018, the last twelve months of data publicly available, and data from January 2016 through December 2016. See http://www.la-sheriff.org/s2/page_render.aspx?pagename=info_detail_19.

¹⁰ In an October 3, 2017 letter to the Office of the Inspector General, Sheriff McDonnell modified his incorrect statement that only "serious and violent" offenders were turned over to ICE. He instead claimed that all transfers in 2016 were "TRUST Act compliant." See McDonnell Oct. 3, 2017 Letter, pp. 2-3, *see note 5, supra*. That has no meaning as the TRUST Act did not limit transfers, but only detainers. AB 4 (California Trust Act), Gov. Code Sec. 7282.5, at https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB4. Even if the transfers were purportedly limited by TRUST Act rules, it is unclear if the LASD deputies conducting these screenings are considering changes to criminal laws.

¹¹ See *Roy v. County of Los Angeles*, 2018 WL 914773, at *23 (C.D. Cal. Feb. 7, 2018) ("The LASD officers have no authority to arrest individuals for civil immigration offenses, and thus, detaining individuals beyond their date for release violated the individuals' Fourth Amendment rights."); *Galarza v. Szalczyk*, 745 F.3d 634, 644 (holding that "a conclusion that a detainer issued by a federal agency is an order that state and local agencies are compelled to follow, is inconsistent with the anti-commandeering principle of the Tenth Amendment"); *Miranda-Olivares v. Clackamas Cty.*, No. 3:12-CV-02317-ST, 2014 WL 1414305, at *6 (D. Or. Apr. 11, 2014), ("[A] conclusion that Congress intended detainers as orders for municipalities to enforce a federal regulatory scheme on behalf of [ICE] would raise potential violations of the anti-commandeering principle").

because these requests are optional, and not mandatory directives.¹² LASD should prohibit such active participation in immigration enforcement, as other jurisdictions already have done.¹³

3. LASD should limit the collection of personal information that could be used for immigration enforcement purposes—including place of birth.

LASD should not collect unnecessary information that can be used for immigration enforcement, or that will diminish the community's willingness to engage with LASD. Under the California Values Act, agencies are prohibited from inquiring into immigration status.¹⁴ LASD should also avoid collecting other information from individuals that could be used as a proxy for immigration status and for immigration enforcement purposes, such as place of birth, employment information, social security number or lack thereof, tax identification number, or home or work address, unless (1) the agency is authorized under law to collect and act upon the information; (2) the agency has a legally-authorized purpose (unrelated to immigration enforcement) for the collection of this information; and (3) the collection of the information is *necessary* to accomplish this legally-authorized purpose.

The Department cannot disclose to immigration authorities information which it does not have.

First, LASD should avoid collecting information about immigration status as required by law. This includes not inquiring into immigration status for those seeking U or T visa certification.¹⁵

Second, LASD should avoid asking questions about place of birth or nationality. Information regarding a person's country of origin is sensitive information which can be used as a proxy for immigration status¹⁶; can lead to targeting by federal immigration authorities; and can be associated with discriminatory police action. The policy of asking about place of birth or nationality, and including this in federal databases, puts non-citizen residents at risk following even the most minor of encounters with the law.¹⁷ By recording information about a person's

¹² *Morales v. Chadbourne*, 996 F.Supp.2d 19, 40 (D.R.I. 2014), *aff'd in part, dismissed in part*, 793 F.3d 208 (1st Cir. 2015) ("The language of both the regulations and case law persuade the Court that detainers are not mandatory"); *Villars v. Kubiowski*, 45 F.Supp.3d 791, 802 (N.D. Ill. 2014) (federal courts and all relevant federal agencies and departments consider ICE detainers to be requests).

¹³ *See, e.g.*, Ordinance No. NS-2908 (Santa Ana, California), Jan. 17, 2017, Sec. 6(a), at https://www.aclunc.org/docs/sanctuary_policy_santa_ana.pdf; Riverside County Sheriff's Department Corrections Division Policy Manual, May 6, 2014, https://www.ilrc.org/sites/default/files/resources/1_-_riverside_county.pdf.

¹⁴ Cal. Gov't Code § 7284.6(a)(1)(A).

¹⁵ The Department is not *required* to collect information regarding an individual's immigration status to assist a person in obtaining a U visa. The Department can provide information to survivors of crime about U Visas and can certify U Visas without making immigration status inquiries. Nothing about providing a U Visa certification—which states only that an individual is a victim of a qualifying crime which he or she helped to investigate—requires the LASD to collect immigration status information. To the contrary, intrusive questioning about immigration status could make crime survivors reluctant to seek U Visa certifications from LASD.

¹⁶ The use—and abuse—of this information has been documented in nearby Ventura County. The policy of the Ventura County Sheriff's Department is to ask every person brought into the station about their place of birth and nationality. The Department then puts together a list of the foreign-born persons who have passed through the station that day and hands it directly to ICE. ICE then uses that list to target persons for removal. Meeting with Ventura Sheriff Geoff Dean and People Power, April 10, 2017.

¹⁷ DHS actively combs regional law enforcement databases for information it can use to target non-citizens. *See* George Joseph, "Where ICE Already Has Direct Lines to Law-Enforcement Databases with Immigrant Data," *NPR*

place of birth or nationality, LASD creates a treasure trove of information for ICE about residents and puts foreign-born residents at risk of severe immigration consequences.¹⁸

Information regarding an individual's place of birth or national origin is rarely required for law enforcement.¹⁹ There is also no legal obligation to collect this information—including incident to arrest. Neither the Vienna Convention on Consular Relations nor any other international or bilateral agreement requires the Department to ever collect information regarding an individual's place of birth or immigration status.²⁰

Insofar as the LASD does keep records related to a person's place of birth or nationality, those should be maintained separately from regular booking information. Place of birth or nationality should *never* be recorded in the same location as booking information, or shared with the FBI. This is neither required nor recommended, and creates unnecessary risk of immigration enforcement for individuals booked.²¹

In addition to the associated risks of immigration enforcement, the LASD policy of asking about place of birth or nationality risks undermining community trust and providing a basis for discriminatory policing.²² Advocates have documented experiences of individuals who connected their treatment by local law enforcement to their reporting of their nationality—including a LASD officer threatening to report to ICE after an individual identified he was from Mexico.²³ The subjective experience of being profiled on account of racial or ethnic

(May 12, 2017), <http://www.npr.org/sections/codeswitch/2017/05/12/479070535/where-ice-already-has-direct-lines-to-law-enforcement-databases-with-immigrant-d>. Additionally, DHS and ICE have access to FBI databases that the LASD uses each time they run fingerprints or conduct warrant checks. See *The Promise of Sanctuary Cities and the Need for Criminal Justice Reforms in an Era of Mass Deportation*, Fair Punishment Project, 6 (2017) <https://www.ilrc.org/sites/default/files/resources/fpp-sanctuary-cities-report-final.pdf>.

¹⁸ *Id.*

¹⁹ Most of the information sources we understand LASD to rely on for information about warrants do not appear to include place of birth. Warrant abstracts, warrant information sheets, and reports from the California Law Enforcement Teletype System (CLETS) or the County Warrant System (CWS) do not appear to collect, report, or share place of birth. They do include other identifying information, such as physical descriptions, date of birth, and home address.

²⁰ Article 36 of the Vienna Convention requires local law enforcement officers to *advise* a foreign national who has been arrested of his or her *right* to contact the embassy or consulate for assistance. Separate bilateral treaties with certain countries create additional obligations of consular notification—even if the detainee does not request it and specifically opposes it. Complying with the mandates of the Vienna Convention or associated bilateral treaties should never require an officer to inquire as to the immigration status, nationality or place of birth of an individual with whom s/he comes into contact. In order to comply with the Vienna Convention and related bilateral treaties, LASD could simply inform every arrested person that if s/he is a foreign national, s/he has the right to request consular notification. This requirement can be accomplished without ever asking an individual about his or her nationality. Vienna Convention on Consular Relations, art. 36, April 24, 1963, 21 U.S.T. 77, T.I.A.S. No. 6820 (“[I]f he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested.”).

²¹ Ideally, the LASD would keep paper records which cannot be accessed by federal immigration enforcement authorities through regional or national crime databases. This would not be difficult, as the majority of consular notification occurs via fax. The LASD could simply keep a physical file with these paper notifications, rather than recording a person's place of birth or nationality on a booking form.

²² See generally, Sherry F. Colb, *Innocence, Privacy, and Targeting in Fourth Amendment Jurisprudence*, 96 COLUM. L. REV. 1456 (1996).

²³ Intake with the American Civil Liberties Union of Southern California.

characteristics can undermine faith in police legitimacy and community trust.²⁴ In one example of this policy in practice, high school students en route to a school-organized internship were approached by officers who asked about—and recorded—the students’ place of birth. The students—and their teachers—*experienced* and *understood* this discretionary questioning as tied up in their race and perceived immigration status.²⁵

4. LASD should not share information with immigration authorities unless required by law.

LASD is under *no* legal obligation to voluntarily communicate with ICE—and should neither do so affirmatively nor by making databases available to ICE for immigration enforcement purposes. Information-sharing with federal immigration authorities should only be permitted *where required by law*.

We recommend that LASD cease making release dates publicly available and establish the following limitation on sharing information:

“LASD shall ensure that personal information held in Department databases is protected and not subject to disclosure to the federal government for purposes of immigration enforcement, including by: (a) prohibiting the Department from providing non-publicly available information about any individual, other than information regarding the individual’s citizenship or immigration status, to federal immigration authorities, unless required by law; and (b) prohibiting the Department from making databases available to federal authorities for immigration enforcement, except where required by law.

This shall not prevent the Department from responding to a lawfully-issued judicial criminal warrant, or court order issued by a federal or state judge. Notwithstanding the above, and consistent with Sections 1373 and 1644 of Title 8 of the United States Code, this neither requires nor prohibits any entity or official from maintaining or exchanging information regarding the immigration status of any individual or sending or receiving information regarding the citizenship or immigration status of any individual with any federal, state, or local government entity”

In an effort to ensure greater transparency and accountability with regard to local law enforcement cooperation with ICE, state legislators enacted the TRUTH Act with specific obligations to disclose information to an individual in custody and his or her attorney if release date information is disclosed to ICE.²⁶ In an effort to bypass their obligations under the TRUTH Act, LASD began to disclose on a website information about release dates of all inmates in

²⁴ See generally, Tom R. Tyler and Cheryl J. Wakslak, *Profiling and Police Legitimacy: Procedural Justice, Attributions of Motive, and Acceptance of Police Authority*, 42 CRIMINOLOGY 253 (2004).

²⁵ Interview with Ricardo Mireles, Executive Director of Academia Avance Charter School, February 28, 2017.

²⁶ The California TRUTH Act, which went into effect in January 2017, requires a law enforcement agency to “promptly provide [] notification in writing to the individual and to his or her attorney or [designee]” if “a local law enforcement agency provides ICE with notification that an individual is being, or will be, released on a certain date.” AB 2792 (TRUTH Act), Gov. Code Sec. 7283.1(b).

custody, and being processed.²⁷ This was almost immediately after the TRUTH Act went into effect and provided essentially the same information where state law had limited disclosure.²⁸ Such information had previously been provided directly to ICE—in secret—and would now be provided “to the public,” including ICE. LASD has also recently acknowledged affirmatively sharing information with ICE—including release dates, information about imminent releases, charges, and length of time detained—where that information was *not* provided to the public.²⁹ Following an expression of concern by the County Inspector General, LASD now provides more limited information to ICE through a screen which ICE accesses inside the jail.³⁰ Despite explicit and well-established concerns expressed by Los Angeles elected officials and California judges about courthouse arrests, LASD also affirmatively contacts ICE “by email or phone” to notify immigration authorities of an individual’s release from jail or court to facilitate a transfer to ICE custody.³¹

In sharing information about release dates, affirmatively to ICE and to the public (to bypass state law and share it with ICE without restrictions), the Department is actively facilitating ICE arrests of Angelenos outside of police stations and jails, at courthouses, and at workplaces, in direct conflict to stated interests of the County’s elected officials.³² While this information is of course known to the individual in custody and her counsel, this information need not be provided to the public or to ICE, and is disclosed by LASD for the purpose of facilitating transfers and deportations.

In their preliminary recommendations, the COC recommended that LASD not disseminate information about release data unless required by law. The COC should go further.

First, the COC should recommend against the disclosure of *any* information to ICE unless required by law; and that LASD no longer make release dates publicly available. This is consistent with federal law.³³ Further, nothing in state law requires any greater disclosure to

²⁷ Prior to the TRUTH Act’s entry into effect, LASD “provide[d] lists to ICE which provided them with a 7-day advance notice of release dates.” After the TRUTH Act went into effect, LAD “started providing the public, via [the LASD] website, with a list of sentenced inmates via [the LASD website] and soon after “a pending release date list of inmates who were actively in the process of being released.” See McDonnell Oct. 3, 2017 Letter, p. 3, *see* note 5, *supra*. See also OIG 2017 Report, p. 8, *see* note 6, *supra*.

²⁸ Sheriff McDonnell acknowledged that he was dishonest with the Inspector General about the provision of information to ICE. See McDonnell Oct. 3, 2017 Letter, p. 3, *see* note 5, *supra*. (“With respect to our statements that we were either no longer providing ICE with lists of individuals being released, or that we did not provide release information to ICE, those statements were not accurate.”).

²⁹ OIG 2017 Report, p. 12, note 6, *supra*. See McDonnell Oct. 3, 2017 Letter, p. 3, *see* note 5, *supra*.

³⁰ OIG 2017 Report, p. 9, *see* note 6, *supra*.

³¹ See McDonnell Oct. 3, 2017 Letter, pp. 3-4, *see* note 5, *supra*.

³² See “Los Angeles County takes bold steps in support of immigrants,” <https://www.lacounty.gov/newsroom/lacounty-daca-immigrants/> and <http://hildalsolis.org/supervisors-call-for-countywide-sensitive-locations-policy-immigrant-protection-taskforce/> (Board of Supervisors’ approval of a sensitive locations policy to limit immigration enforcement at County locations).

³³ Federal law is clear: LASD is *not* required to affirmatively collect information for immigration enforcement purposes or share *any* information with federal immigration authorities. The one provision of the U.S. code which touches on this area – 8 U.S.C. § 1373 – *only* concerns information regarding immigration and citizenship status. It does not concern communication of any other type of information; and neither requires the Department to collect information about immigration status or affirmatively release an individual’s immigration status. 8 U.S.C. § 1373 states that “a Federal, State, or local government entity or official *may not prohibit, or in any way restrict*, any

ICE.³⁴ It is thus a question of policy rather than law—and the policy considerations strongly favor prohibiting disclosure of all information where not legally compelled.

Second, LASD should apply consistent privacy protections with respect to the collection, use, and dissemination of any and all personal information. The Department should issue privacy policies for each of its databases, outlining the personal information held in those databases; the authorized and permissible forms, methods, and process of sharing of information with internal and external entities; and the policies for auditing the sharing of that information to ensure that it complies with the agency's policies.

Third, LASD should refrain from providing agencies involved in immigration enforcement direct access to their databases. LASD should avoid blanket, ongoing, or mass sharing of personal information from databases. Sharing of personal information on an individualized basis allows LASD the opportunity to obtain certification from the requesting agency of the purpose for each inquiry, thereby allowing LASD to subsequently audit the use and disclosure of that data.

Fourth, LASD should notify the individuals whose personal information they are sharing with requesting agencies, where that notification is not otherwise prohibited by law. The notice should contain the information being shared so that the individual may contest the accuracy of that information, or update or amend that information.

Fifth, LASD should ensure, by contractual terms, certifications, or other written agreements, that third party recipients of personal information in LASD or shared databases (i.e., other local, state, out-of-state or federal agencies, contractors or vendors, or other private companies offering data services) do not further share personal information in a manner that would allow it to be used for immigration enforcement purposes.

Sixth, LASD should adopt training requirements for their employees and contractors on the applicable laws and policies to ensure that the collection of personal information comports with these frameworks. Further, LASD employees and contractors should be instructed that they are not allowed to share personal information in databases with federal agency personnel engaged in immigration enforcement, except as authorized and permitted under law.

Seventh, LASD should strictly limit the sharing of LASD's gang database information.³⁵ Databases used to record suspicions of gang membership or association are a source of particular concern because of the low threshold for making gang allegations and the dramatic effect these

government entity or official from sending to, or receiving from, the Immigration and Naturalization Service [which is now ICE, USCIS, or CBP] information regarding the citizenship or immigration status, lawful or unlawful, of any individual." Section 1373 only establishes a *negative obligation* in the sense that state and local entities must simply *refrain* from *restricting* its composite state actors from exchanging information with ICE and other immigration authorities. There is no *positive obligation*—state and local entities are not obliged to act affirmatively to cooperate with ICE and other immigration authorities.

³⁴ While the California Public Records Act does provide that LASD may be required by law to provide the public with certain information, the CPRA provides greater enforceable access rights for private persons than it does for federal agents acting in their official capacity—who are not protected by the CPRA.

³⁵ AB 90, relating to gang databases, prohibits the sharing of information in gang databases for federal immigration purposes unless required by state or federal statute or regulation. Sec. 7, amending Cal. Pen. Code Sec. 186.35(k)(8).

allegations have in the immigration context. Law enforcement agencies maintain databases of individuals merely suspected of gang membership or association, sometimes based on innocent activity such as wearing sports gear or associating with friends.

When gang allegations are shared with federal agencies for non-immigration purposes, LASD should clearly distinguish between (1) individuals who have been found to be gang members in judicial proceedings such as those described in Penal Code § § 186.30-186.33 or who have been found to be gang members after a hearing in a gang injunction case, and (2) individuals who have defaulted or been adjudicated gang members outside of the criminal context, and (3) individuals merely suspected of gang membership.

Because of the risk of immigration enforcement as a collateral consequence of federal criminal investigations, identities of those suspected of gang membership may be shared with federal agencies only for criminal investigations into specific crimes reasonably suspected of having been committed by that individual. If federal agencies purport to investigate crimes reasonably suspected of having been committed under a conspiracy involving that gang's members or an unidentified member of the gang, the identities of those suspected of membership in that gang may be shared. Evidence on which suspicions of gang membership are based, which are not related to the underlying crime being investigated, should not be shared with the federal agency.³⁶

5. LASD should not permit ICE access to jails absent a valid judicial warrant.

ICE should not have access to County jails for the purposes of carrying out immigration enforcement. This should include a prohibition against ICE access to jails for interviews and ICE access to LASD's computers or equipment.

We urge you to recommend the adopting of the following clear language requiring ICE to produce a criminal warrant prior to entering LASD facilities, as other jurisdictions have done:

“Unless ICE agents have a criminal warrant, or County officials have a legitimate law enforcement purpose that is not related to the enforcement of immigration laws, ICE agents shall not be given access to individuals or allowed to use County facilities for investigative interviews or other purposes.”

Nothing in federal or state law requires LASD to permit ICE to enter its facilities. The presence of ICE agents conducting interviews or interrogations in the jail facilities undermines the Department's goal to limit the perception and reality of LASD participation in federal immigration enforcement.

Currently, the Department guarantees the protections permitted under the state's TRUTH Act (specifically “consent”), as is their obligation. But consent alone is not a strong enough safeguard against abusive ICE interrogations in Department custody which may result in deportation. It

³⁶ Because of the risk of extra-judicial killings of deported alleged gang members in their home countries, neither suspicions of gang membership nor the evidence on which those suspicions are based should ever be shared with agencies outside the United States.

may be difficult for individuals in custody, who are in the intimidating position of being subject to law enforcement authority and physical detention, to understand and assert their rights, and communicate a clear refusal of consent. Documents and requests related to ICE or immigration enforcement create a lot of confusion and anxiety amongst community members. Historically, ICE has used this confusion, anxiety, and fear to compel consent in numerous cases despite individual rights to refuse cooperation. This issue is further compounded for those with limited or no literacy—i.e. those who may not be able to read the written consent form cannot understand what the consent form actually says—or for those with language access issues—e.g. those who communicate in languages for which there is no written consent form cannot engage with their rights in a meaningful way. Therefore, the procedural safeguards on the books regarding consent do not always translate into practice.

Jurisdictions across the country, including Chicago, Illinois; Cook County, Illinois; Denver, Colorado; Lawrence, Massachusetts; New Orleans, Louisiana; Orleans Parish, Louisiana; Richmond, California; Santa Clara County, California; Santa Fe, New Mexico; and Washington, D.C., prevent ICE from entering jails without a valid judicial warrant.³⁷ LASD should as well.

6. LASD should not participate in *criminal* immigration enforcement.

LASD should not participate in federal *criminal* immigration enforcement (i.e., arresting an individual for illegal re-entry following a traffic stop which would not have otherwise resulted in an arrest). Specifically, LASD should prohibit arrests or transfers for *illegal re-entry*, and not only *illegal entry*.

The Department's current policy allows for sweeping participation in criminal immigration enforcement—up to the limits permitted (but not required) by state law.³⁸ Currently, LASD

³⁷ See, e.g., *Chicago*: Ordinance, Welcoming City Ordinance, Jul. 25, 2012, Sec. 2-173-042(b), at https://www.ilrc.org/sites/default/files/resources/06_-_chicago_ordinance.pdf; *Cook County*: Policy for Responding to ICE Detainers, Sec. 46-37(b), at https://www.ilrc.org/sites/default/files/resources/07_-_cook_county_ordinance.pdf; *Denver*: “Denver Passes Immigrant Protections Amid White House Threats,” SEATTLE TIMES, Aug. 28, 2017; *Lawrence, Mass.*: Lawrence Trust Ordinance 133, Jun. 8, 2015; *New Orleans*: New Orleans Police Department Operations Manual, Policy 41.6.1: Immigration Status, Sec. 5-6, <https://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-41-6-1-Immigration-Status-approval.pdf>; *Orleans Parish*: Orleans Parish Sheriff's Office, Policy: Immigration and Customs Enforcement Procedures, June 21, 2013, Sec. 4, at <https://www.clearinghouse.net/chDocs/public/IM-LA-0009-0002.pdf>; *Richmond*: Richmond Police Department Policy Manual, Aug. 2013; *Santa Ana*: Ordinance No. NS-2908, Dec. 20, 2016, Sec. 6, at <http://voiceofoc.org/wp-content/uploads/2017/01/Santa-Ana-sanctuary-city-ordinance-adopted.pdf>; *Santa Clara County*: Policy Resolution No. 2011-504, Oct. 18, 2011, Sec. 3, at https://www.ilrc.org/sites/default/files/resources/santa_clara_ordinance.pdf; *Santa Fe*: See Vic Vela, “NM Jail Blocks Access for ICE, Claiming Racial Profiling,” ALBUQUERQUE JOURNAL, June 26, 2010, available at <http://uncoverthetruth.org/press/press-new-mexico/nm-jail-blocks-access-for-ice-claiming-racial-profiling-santa-fe-jails-director-contents-u-s-immigration-and-customs-enforcement-authorities-profile-inmates-albuquerque-journal/>; *Washington, D.C.*: Immigration Detainer Compliance Emergency Amendment Act of 2012, June 15, 2012, Sec. 23-1331(d)(1), at https://www.ilrc.org/sites/default/files/resources/21_-_washington_dc_ordinance.pdf; and Mayoral Order re Disclosure of Status of Individuals, Oct. 19, 2011, Sec. B.3, at <http://dcregs.dc.gov/Gateway/NoticeHome.aspx?NoticeID=1784041>.

³⁸ The California Values Act *permits*, but does not *require*, local law enforcement to arrest, detain, or investigate someone for violations of criminal immigration law that penalize a person's presence in, entry, or reentry to, or employment in, the United States, only for unlawful reentry under 8 U.S.C. § 1326(a) if the reentry is detected

policy allows for the warrantless arrest and subsequent transfer to federal authorities of individuals for violations for certain immigration crimes. Specifically, LASD may arrest people and transfer them to federal custody for illegal re-entry (8 U.S.C. § 1326(a), (b)(2)) if the person has a prior conviction for a so-called “aggravated felony.” An “aggravated felony” is *not* necessarily a serious offense. Rather, aggravated felonies are a term of art that encompasses many offenses that are *not* considered to be aggravated, or even felonies, under California law.³⁹

There are *no* instances in which LASD *must* or *should* participate in the enforcement of the crime of “illegal re-entry,” under Section 1326.⁴⁰ Essentially, the unlawful reentry statute criminalizes people for returning home to their families; LASD should have no interest in being part of that.⁴¹

Any endorsement of participation in federal criminal immigration enforcement is particularly concerning in light of recent changes to federal policy. Under Attorney General Sessions, the federal government has made clear its intent to rely on criminal prosecutions to deter unauthorized immigration generally, bringing criminal charges wherever possible and abandoning any pretense of prosecutorial discretion.⁴²

during an unrelated law enforcement activity and the person was previously removed due to a conviction for an aggravated felony under 8 U.S.C. § 1326(b)(2). Cal. Gov’t Code § 7284.6(b)(1). Even in this situation, law enforcement may only respond to an immigration transfer request where one of the conditions listed in section 7282.5 is met. *Id.*

³⁹ See American Immigration Council, *Aggravated Felonies: An Overview*, at <https://www.americanimmigrationcouncil.org/research/aggravated-felonies-overview>. Further, the question of whether an individual has a conviction for an *aggravated felony*, is a complicated legal question and is constantly changing through caselaw. See, e.g., Immigrant Legal Resource Center, “§ N.6 Aggravated Felonies,” Jan. 2013, at https://www.ilrc.org/sites/default/files/resources/n.6-aggravated_felonies.pdf (“Every offense should be suspiciously examined until it is determined that it is *not* an aggravated felony. While some offenses only become aggravated felonies by virtue of a sentence imposed of a year or more [], others are regardless of sentence. Outside of some drug offenses, even misdemeanor offenses can be held to be aggravated felonies.”). There are also limits that federal law places on the authority of local police to make arrests for violations of Section 1326. See 8 U.S.C. § 1252c. As a result, current Department policy may be read to authorize arrests that violate state or federal law. LASD officers are not equipped to determine that there is reasonable suspicion of illegal re-entry after an aggravated felony. This policy may place an undue burden on officers to make legal decisions and may subject individuals without even aggravated felonies—let alone violent felonies listed in CPC § 667.5(c)—to wrongful arrests, reporting to ICE, and deportation.

⁴⁰ While CPC § 836 says officers “*may* arrest a person in obedience to a warrant” (emphasis added), the case law is clear that “the discretionary language used in CPC § 836(a)(2) clearly does not establish a mandatory duty.” *Chavira v. Chavez*, 2014 WL 12576819 (C.D. Cal. 2014).

⁴¹ See Human Rights Watch, *Turning Migrants Into Criminals* (May 2013), at https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_2.pdf. The indiscriminate use of criminal unlawful reentry charges is especially of concern given Attorney General Sessions’ policy directing AUSA offices throughout the country to prioritize the prosecution of immigrants for criminal immigration violations. See “Memo: Renewed Commitment to Immigration Enforcement, April 11, 2017, at <https://www.justice.gov/opa/speech/file/956856/download>; see also “Attorney General Jeff Sessions Delivers Remarks Announcing the Department of Justice’s Renewed Commitment to Criminal Immigration Enforcement,” Nogales, AZ, Apr. 11, 2017, at <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-deliversremarks-announcing-department-justice-s-renewed> (“It is here, on this sliver of land, where we first take our stand against this filth.”).

⁴² Dep’t of Justice, “Attorney General Jeff Sessions Delivers Remarks Announcing the Department of Justice’s Renewed Commitment to Criminal Immigration Enforcement,” Apr. 11, 2017, <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-announcing-department-justice-s-renewed>; Matt Zapotosky & Sari Horwitz, *Sessions Tells Prosecutors to Bring More Cases against those Entering*

Federal criminal immigration laws are just as outdated and unjust as civil immigration laws. Federal laws that criminalize the presence, work, and entry of undocumented immigrants are essentially status crimes. These laws criminalize all undocumented immigrants simply because they are undocumented and trying to support their families. Local law enforcement have the discretion to choose not to engage in arrests for criminal immigration law violations, and LASD should do so.

7. LASD should not respond to ICE requests for field assistance.

The COC's draft recommendations state that LASD should not provide assistance to ICE for routine operations unless there are exigent circumstances. Yet no "exigent circumstances" exception is necessary. There should never be a justification for responding positively for requests for field assistance. Exceptions would ultimately swallow the rule making LASD complicit in enforcement actions such as raids and arrests.

To the extent LASD participates in DHS criminal operations (see below in the joint task forces and operations section), LASD should never provide assistance for civil or criminal *immigration* operations.

8. LASD should not participate in joint task forces or operations with, or for the purposes of, immigration enforcement.

As a fundamental matter, we oppose joint task force or law enforcement operations with federal immigration authorities. *If* joint task force or law enforcement operations are permitted, there should be a clear prohibition of any civil or criminal immigration enforcement actions—by any agency involved in the operation—and meaningful public oversight, transparency and accountability.

If LASD continues to engage in joint operations, at a minimum:

- (1) The explicit – and exclusive – purpose of any joint operation must be to enforce non-immigration-related criminal violations.
- (2) LASD should prohibit immigration authorities from engaging in collateral arrests either during the operation, or subsequent to the operation relying on information obtained during the task force.
- (3) If LASD cannot secure a written commitment from DHS that it will not engage in immigration enforcement actions in conjunction with, or subsequent to, targeted criminal operations, the Department should refuse to participate.
- (4) LASD should be required to obtain meaningful information from DHS, and share such information with the public.

U.S. Illegally, WASH. Post, Apr. 11, 2017, https://www.washingtonpost.com/world/national-security/sessions-tells-prosecutors-to-bring-more-cases-against-those-entering-us-illegally/2017/04/11/9fc6e964-1eb7-11e7-ad74-3a742a6e93a7_story.html?utm_term=.7f3105d5ad4b ("The Trump administration—and Sessions in particular—has taken a hard-line stance on immigration, alarming activists who say U.S. officials are testing legal boundaries and implementing policies contrary to American values").

Under the Trump Administration, ICE has encouraged its officers to arrest all undocumented people they come across, regardless of whether they are the target of the enforcement action.⁴³ Therefore, to ensure that the Department does not participate in immigration enforcement during joint operations, federal authorities must also share LASD's understanding and commitment—in writing—that the joint operation is limited to the enforcement of criminal laws unrelated to immigration.

LASD's participation in joint task forces or operations also should not jeopardize personal information that will place Angelenos at risk of immigration enforcement.

There have been at least three known joint operations with local law enforcement and federal immigration enforcement over the past year in Los Angeles which have resulted in collateral arrests. In just these three known cases, at least 19 people were arrested and placed in immigration proceedings as “collateral” to the intended targets. This includes seven people known to be arrested after the initial operation, relying on information obtained as a result of the collaboration.⁴⁴

Other jurisdictions have highlighted the risks associated with participation in joint task forces,⁴⁵ and are beginning to prohibit such joint operations—including in Oakland, Santa Ana and San Francisco.⁴⁶ The Los Angeles Police Department also recently limited participation in joint task

⁴³ Memorandum from Matthew T. Albence, Executive Associate Director of ICE, to All ERO Employees, “Implementing the President’s Border Security and Interior Immigration Enforcement Policies,” Feb. 21, 2017, <https://www.documentcloud.org/documents/3889695-doc00801320170630123624.html> (“effective immediately, ERO officers will take enforcement action against all removable aliens encountered in the course of their duties”); Marcelo Rochabrun, “ICE Officers Told to Take Action Against All Undocumented Immigrants Encountered While on Duty,” PROPUBLICA, July 7, 2017, <https://www.propublica.org/article/ice-officers-told-to-take-action-against-allundocumented-immigrants>.

⁴⁴ See David Noriega, *Under Trump, Sanctuary Cities May Not Be So Safe*, BuzzFeed, Dec. 8, 2016, https://www.buzzfeed.com/davidnoriega/the-lapd-says-it-wont-work-with-feds-on-deportations-but-it?utm_term=.vbrDoZMGXz#.jmy8JOKGkE (a purported human trafficking joint task force investigation resulted in multiple deportations but zero trafficking charges; and a long-time LA resident was placed in deportation proceedings for being near a burglary arrest in which LAPD brought ICE agents along); James Queally, *Immigration activist who says she was victim of retaliation by Border Patrol applies for 'Dreamer' protections*, Los Angeles Times, Jun. 19, 2017, <http://www.latimes.com/local/lanow/la-me-ln-claudia-rueda-20170619-story.html> (a joint operation by the Border Patrol and LASD in April 2017 led to the arrest of Teresa Vidal-Jaime; despite the Sheriff’s Department stating that Vidal-Jaime was not part of the alleged drug operation, she was held in federal custody for several weeks on suspicion of violating immigration law).

⁴⁵ See, e.g., Robin Urevich, *Unsafe Sanctuaries? Undocumented Immigrants Often Swept Up in ICE’s California Stings*, Newsweek, Apr. 26, 2017, <http://www.newsweek.com/sanctuary-city-undocumented-immigrants-swept-ice-california-sting-590547> (Santa Cruz Deputy Police Chief Dan Flippo contended that ICE agents violated a tacit agreement that they would not conduct immigration enforcement as part of joint task force operations); Hamed Aleaziz, *‘Collateral’ Immigration Arrests Threaten Key Crime Alliances*, San Francisco Chronicle, Apr. 28, 2017, <http://www.sfchronicle.com/bayarea/article/Collateral-immigration-arrests-threaten-key-11106426.php> (noting that Santa Cruz Sheriff Jim Hart refused to participate in a joint task force operation purportedly targeting a gang when he did not get sufficient information to ensure that he would not be participating in immigration enforcement related arrests in violation of the Sheriff’s Department policy).

⁴⁶ See, e.g., Santa Ana, CA Ordinance No. NS-2908, Dec. 20, 2016, Sec. 6(b)) (prohibits “assisting with or participating in any immigration enforcement operation or joint operation or patrol that involves, in whole or in part, the enforcement of federal immigration laws”), at <http://voiceofoc.org/wp-content/uploads/2017/01/Santa-Ana->

forces or operations—prohibiting participation in any operation where immigration authorities engage in civil immigration enforcement and increasing oversight and transparency obligations.⁴⁷

The California Values Act provides that local policy may limit participation in joint task forces or operations with immigration authorities.⁴⁸ Department policy should clearly prohibit or limit participation in such operations, especially if they implicate immigration enforcement.

To reach the shared goal of eliminating collateral arrests for immigration enforcement resulting from joint operations, we urge LASD to:

- Ensure that a task force or joint operation include an explicit—and exclusive—purpose “to enforce non-immigration-related criminal violations”;
- Prohibit LASD participation in joint operations where the purpose or direct effect is the enforcement of civil immigration law;
- Delineate in policy the explicit and limited purposes of joint operations (i.e., terrorism, human trafficking, and any other *specific* non-immigration related criminal ends);
- Ensure that all Department policies and legal restrictions (not just those involving civil immigration enforcement) bind Department personnel participating in joint task forces or operations;
- Ensure appropriate oversight in advance of the operation and follow-up with all parties to the joint operation to ensure that the intended purpose and effects are not violated.

Specifically, we recommend that – if LASD continues to engage in joint operations with federal immigration authorities, it establishes the following limitations:

- (1) *Joint criminal investigations with federal law enforcement agencies shall be limited to criminal investigations of terrorism, human trafficking, internet crimes, and [identify other specific purposes of joint operations].*
- (2) *When Department personnel participate in task forces, cooperative agreements or joint enforcement operations with a federal agency authorized to enforce civil immigration law (“joint operations”), the Department shall:*
 - a. Ensure that all written and oral agreements remain consistent with Department policies, procedures and restrictions pertaining to immigration enforcement;*
 - b. Ensure that any written task force or other cooperative agreement expressly state that the sole purpose of the joint operation is non-immigration-related criminal enforcement;*

[sanctuary-city-ordinance-adopted.pdf](#). Ellen Nakashima, “San Francisco Police Department Pulls Out of FBI Anti-Terrorism Task Force, Washington Post, Mar. 10, 2017, at https://www.washingtonpost.com/world/national-security/san-francisco-police-department-pulls-out-of-fbi-anti-terrorism-task-force/2017/03/10/62e05bcc-fd09-11e6-8f41-ea6ed597e4ca_story.html?utm_term=.be18f3d067ad, Rebecca Parr, Oakland Police Will No Longer Participate in ICE-Led Task Forces, EAST BAY TIMES, Jul. 19, 2017, at <http://www.eastbaytimes.com/2017/07/19/oakland-cuts-ties-with-ice/>.

⁴⁷ See *The Los Angeles Police Department and Federal Immigration Enforcement Frequently Asked Questions*, May 16, 2017, Question 22.

⁴⁸ CA Gov. Code 7284.6(a)(1), (b)(3)(A-C), (c)(1).

- c. *Ensure that personnel do not participate in any joint operations whose purpose or direct effect is to enforce federal immigration law, and cease participation in an operation if any participant intends to or does take immigration enforcement actions in connection with the joint operation;*
 - d. *Ensure that Department personnel participating in a joint operation are informed of their obligations to abide by Department policies, procedures and restrictions; acknowledge these obligations in writing; and remain in compliance while participating in a joint operation;*
 - e. *Ensure Department personnel are not delegated any authority to enforce immigration law;*
 - f. *Ensure that any written task force or other cooperative agreement, under consideration be reviewed and approved by the Sheriff, and submitted to the Civilian Oversight Commission, the Office of the Inspector General, and the Board of Supervisors for review and approval prior to execution;*
 - g. *Make a reasonable effort to determine after the joint operation whether the joint operation resulted in an arrest for immigration enforcement purposes, including requesting such operation from all participating agencies and officers, and providing written documentation following each joint operation by the Department personnel and the highest supervising officer.*
- (3) *The Department's policies on joint operations shall not compromise the ability to protect personally identifiable information from use in immigration enforcement. Accordingly, LASD shall:*
- a. *Ensure that Department information-sharing arrangements with an agency authorized to enforce federal immigration laws do not allow access to Department databases for federal immigration enforcement except as required by law; and*
 - b. *Not allow access to LASD databases to assist in immigration enforcement except as required by law.*

It is not enough for LASD to prohibit *Department* personnel from participating in federal civil immigration enforcement in joint task force operations. If the Department is participating in operations with DHS in which Angelenos are being arrested *solely* for immigration violations, LASD is indirectly participating in such arrests.

9. LASD should not aggressively pursue people for “quality of life” and other low-level offenses.

LASD should also stop aggressively pursuing people for “quality of life” and other low-level offenses. Among other things:

(1) LASD should limit over-policing, including investigations, stops and arrests for quality of life crimes. As a coalition of law enforcement professionals, including LAPD Chief Charlie Beck, stated earlier this year: “[w]e need not use arrest, conviction, and prison as the default response for every broken law.”⁴⁹

⁴⁹ Law Enforcement Leaders, *Fighting Crime and Strengthening Criminal Justice: An Agenda for the New Administration*, www.lawenforcementleaders.org 1 (2017), http://lawenforcementleaders.org/wp-content/uploads/2017/02/LEL_Agenda_for_a_New_Administration.pdf. New York City has led the charge—

(2) Except where required by law, LASD should not book or fingerprint for misdemeanors pursuant to the provisions of Cal. Pen. Code Section 853.6. This section states, with certain exceptions—all of which are discretionary—that in any case in which a person is arrested for a misdemeanor that person shall be cited and released instead of being taken into custody, fingerprinted and booked.⁵⁰ LASD should narrowly interpret the exceptions in 853.6(i).

(3) If an individual would have otherwise been released for an infraction or misdemeanor on a citation, the person should be given a reasonable opportunity to verify his or her true identity in lieu of arrest or booking (e.g. telephone calls, student IDs, consular identification cards, alternative forms of identification).⁵¹ If the person's identity is reasonably established, the original citation release should be completed without booking or arrest.

(4) LASD should not book offenses as misdemeanors if they could have been filed as infraction offenses (wobblettes), thereby avoiding the risk of booking and sending fingerprints and biographical information to ICE.

(5) LASD should adopt a policy of own recognizance release for all misdemeanor and non-serious felony arrestees immediately following booking for those who are booked.

The growing intertwining of immigration enforcement with local criminal justice systems has resulted in the deportations of hundreds of thousands of immigrants, many of whom are longtime residents of the state of California, with deep connections to their families and communities in our state.

National policy changes over the past decade mean that federal immigration authorities automatically receive the fingerprints of those booked into local law enforcement custody. Any booking by the Department effectively notifies DHS and ICE of an individual's current location

passing municipal legislation in June 2016 which requires officers to “employ the civil summons as the default approach” for a variety of minor misdemeanors, such as “spitting, littering, public urination, open container of alcohol, excessive noise and violations of park rules.” See J. David Goodman & Benjamin Mueller, *New York City Police Officers Told to Relax Stance on Petty Offenses*, N.Y. Times (June 13, 2017), <https://www.nytimes.com/2017/06/13/nyregion/new-york-city-police-officers-told-to-relax-stance-on-petty-offenses.html>. On the other extreme, at the height of Los Angeles' Safer Cities Initiative in Los Angeles in 2011, a survey of poor and homeless residents of Los Angeles found 53.6% of respondents (both homeless and housed) had been arrested in the past year. (This compares to an adult arrest rate in the State of California of 4.9%.) Data from the Los Angeles Homeless Services Authority's 2009 Homeless Count that shows that the most prevalent form of victimization reported was police harassment (37%), exceeding assault (24%) and robbery (18%). Academics described that the Skid Row area of Downtown Los Angeles experienced “perhaps the highest sustained concentration of police officers anywhere in the world outside of Baghdad.” Gary Blasi & Forrest Stewart, *Has the Safer Cities Initiative in Skid Row Reduced Serious Crime?*, UCLA Sch. of Law 1 (Sept. 2008), http://wraphome.org/wp-content/uploads/2008/09/safer_cities.pdf.

⁵⁰ The Fontana Police Department allows for citation in lieu of arrest for “most misdemeanor cases” involving adults, where no “disqualifying circumstances are present.” Notably, however, this policy also allows for citation and release with regard to certain non-violent “wobblers,” or offenses that could be characterized as either misdemeanors or felonies. The listed wobblers include “property crimes... where the value of the property is less than \$2500,” “weapons violations,” and violations of H&S Code § 11377 (possession of Schedule III, IV, or V controlled substance without a prescription).

⁵¹ See, e.g., New Orleans Police Department Operations Manual, Policy 41.6.1: Immigration Status, Sec. 10 (“When identification is requested, Members shall accept presentation of a photo identity document issued by a non-government organization or a verbal statement of the person's full name and date of birth.”), at <https://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-41-6-1-Immigration-Status-approval.pdf/>.

and arrest record—as well as other booking information, such as home address and date of birth. Even short durations of pre-trial detention can have destabilizing effects on an individual’s life, and tend to distort the criminal justice process.⁵² For immigrants, jail-time—even a single day—can lead to subsequent targeting of an individual by ICE at home or in the community, or an interrogation or arrest from jail and ultimate deportation.⁵³ For these reasons, we strongly urge a review and modification of Department policies to avoid unnecessary bookings and jail time, which have disproportionately harmful consequences for immigrants.

Below are examples of the risks associated with arrests and booking for immigrants, whether or not they are ultimately charged with a crime or convicted:

- Luis,* a longtime Angeleno who had arrived in the United States as a teenager, was recently arrested by LAPD for driving without a license. He was brought to the station apparently because of a probation violation, and transferred to LASD custody. Despite long-term presence in Los Angeles and deep community ties, Luis only narrowly averted a transfer from LASD to ICE custody following a routine traffic stop and a probation violation.⁵⁴
- Earlier this year, Angelo* was arrested by LAPD at his home. While he was not ultimately charged with any crime, within weeks of this brief LAPD arrest, he was sought out by ICE from his home, and deported within hours. He had been a decades-long resident of Los Angeles and was the parent of U.S. citizen children, but as a result of this arrest, fingerprinting, and information-sharing, and due to a decades-old removal order, he is currently in Tijuana and was not given the opportunity to challenge his deportation.⁵⁵

The over-policing of minor crimes has been demonstrated to disproportionately target people of color; and is doubly devastating for immigrants who may face immigration enforcement targeting and deportation as a result of arrests for even minor convictions. The recognition that booking indirectly, but automatically, notifies ICE of sensitive personal information regarding Angelenos in Department custody should compel LASD to revise its current policies and practices to avoid unnecessary bookings.

10. LASD should ensure transparency and accountability by posting monthly reports regarding immigration enforcement.

LASD should disclose publicly, and monthly, any requests for participation in immigration enforcement, and LASD response to such requests⁵⁶; as well as relevant policies and practices.

⁵² See generally Criminal Justice Policy Program, Harvard Law School, *Moving Beyond Money: A Primer on Bail Reform*, 6-8 (2016), <http://cjpp.law.harvard.edu/assets/FINAL-Primer-on-Bail-Reform.pdf>.

⁵³ Fair Punishment Project, *The Promise of Sanctuary Cities and the Need for Criminal Justice Reforms in an Era of Mass Deportation*, 17 (May 4, 2017), <http://fairpunishment.org/wp-content/uploads/2017/04/FPP-Sanctuary-Cities-Report-Final.pdf> (“Because cash bail keeps poor people in jails, it makes many non-citizens sitting ducks for ICE.”). See generally ICE Out of LA, *The Human Rights Consequences of LASD-ICE Collaboration: A Toxic Entanglement* (January 2017), <http://iceoutofla.org/wp-content/uploads/2017/01/ICEoutofLA-UCLA-HR-Clinic-1-12-2017.pdf>.

⁵⁴ Information on file with National Day Laborer Organizing Network. (Name changed to preserve anonymity.)

⁵⁵ Information on file with National Day Laborer Organizing Network. (Name changed to preserve anonymity.)

⁵⁶ The statistical information should be posted on LASD’s website in the same manner as detainer statistics, which are shared monthly at http://www.la-sheriff.org/s2/page_render.aspx?pagename=info_detail_19.

Specifically:

1) LASD should disclose to the public *all requests from ICE*—for detainers, transfers, information, interrogations or interviews, criminal immigration enforcement, joint operations, and all other requests—and *LASD's response*.

2) LASD should further disclose to the public *detailed reports about any joint task force or operation*—including, agencies involved, resources expended (including number of Department personnel involved), target of the operation (purpose), number and type of arrests made by all entities, and number and type of arrests for immigration enforcement arising *at* and *subsequent to* the operation. To do this, the Department should make a reasonable effort to determine whether the joint law enforcement task force resulted in an arrest for immigration enforcement purposes, including requesting such information from all participating agencies and officers, and written documentation following each joint task force by individual officers and the highest supervising officer.

3) Lastly, LASD should disclose *all policies, memoranda, and/or protocols outlining Department collaboration with federal immigration authorities*, including concerning access to Department information or databases, if any exist; and the arrest and booking policies and practices of the Department, the collection of information concerning place of birth, and the use of mobile fingerprinting devices.

11. LASD should develop publicly available resources concerning immigration.

Lastly, we agree with the COC's recommendation that LASD post immigration resources on its webpage. This should include Know Your Rights information in multiple languages, information about the TRUST Act, TRUTH Act and SB 54, as well as other legal resources.